

**UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA**

U.S.A. vs. David M. Barker

Docket No. 5:14-MJ-1108-1

Petition for Action on Probation

COMES NOW Debbie W. Starling, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of, David M. Barker, who, upon an earlier plea of guilty to Driving While Impaired, Level 1, in violation of 18 U.S.C. §13, assimilating N.C.G.S. 20-138.1, was sentenced by the Honorable Robert T. Numbers, II, U.S. Magistrate Judge on March 4, 2015, to a 12-month term of probation under the conditions adopted by the court. On May 26, 2015, the defendant's conditions of supervision were modified to include 30 days of location monitoring as a sanction for Driving While License Revoked.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: The defendant was designated by the Bureau of Prisons to serve his court-ordered jail time on weekends. On December 11, 2015, the defendant was scheduled to report by 7 pm to begin his weekend. However, he contacted the probation officer at approximately 5:00 pm on December 11, 2015, and advised that his ex-wife was in the hospital, there was no one to care for his three minor children (he has sole custody), and had no transportation to get to the jail. Due to his failure to report as scheduled, the Bureau of Prisons (BOP) will not allow him to complete his jail time without a subsequent order from the court. He has completed 9 days of the 30 days as ordered by the court. It is respectfully requested that the defendant be ordered to complete the remaining 21 days of jail time.

Additionally, the defendant was ordered to pay a \$4,000 fine. However, the defendant has failed to make payments as required. The defendant was discharged from the U.S. Army as a result of the instant offense. He continues to serve in the National Guard and earns \$416 per month. He is in the process of selling his business, Carolina Merchantile, which has operated at a deficit for many months. According to a recent financial statement, his monthly net income is \$309, and his total monthly expenses are \$3,675. Based upon this information, it does not appear his non-payment is willful. The defendant will continue to be encouraged to make payments as he is financially able.

PRAYING THAT THE COURT WILL ORDER that probation be modified as follows:

The offender shall be allowed to complete the remaining 21 days of confinement in the Bureau of Prisons and shall adhere to the schedule as designated.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

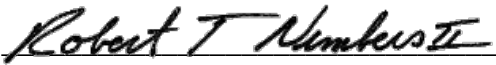
I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Robert K. Britt
Robert K. Britt
Supervising U.S. Probation Officer

/s/ Debbie W. Starling
Debbie W. Starling
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: 910-483-8613
Executed On: December 30, 2015

ORDER OF THE COURT

Considered and ordered this 30th day of December, 2015 and ordered filed and made a part of the records in the above case.


Robert T. Numbers, II
U.S. Magistrate Judge